

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

DEFENDANTS' VIRGO CAPITAL, LLC, NOTICE OF REMOVAL

Defendant, VIRGO CAPITAL, LLC by and through their attorneys, HOUSLANGER & ASSOCIATES, PLLC, hereby removes this civil action bearing Index No. 500608/2016 from the Supreme Court of the State of New York, County of Kings to the United States District Court for the Eastern District of New York pursuant to 28 U.S.C. §1446 and 28 U.S.C. §1331.

1. Plaintiff commenced this action in the Supreme Court of the State of New York, County of Kings by filing a Summons with Notice ("Summons") on or about January 15, 2016. Plaintiff purported to serve Defendant Virgo Capital, LLC on or about May 5, 2016. A copy of the Summons is attached hereto as **Exhibit "A"** without admission or adoption. The Defendant Virgo Capital, LLC as depicted in the affidavit of service is a Delaware LLC.

2. An examination of the Affidavit of Service upon the Defendant Virgo Capital, LLC as filed with the Kings County Clerk on May 5, 2016 (See **Exhibit "B"** attached hereto) sets forth that the Defendant Virgo Capital, LLC is a Delaware Company and that service was made upon said company on May 5, 2016. However, upon review of the Complaint filed June 1, 2016, paragraph 19 (See **Exhibit "C"** attached hereto containing only the relevant pages of the complaint) the Defendant Virgo Capital, LLC is a New York Limited Liability corporation with a principal place of business located at 243 Rt. 100, Somers, NY 10038 (See "NYS Department of State Division of Corporations Entity Information" attached hereto as **Exhibit "D"**). The Plaintiff, to date, has failed to serve the New York Virgo Capital, LLC. This Defendant was awaiting service before bringing this Notice of Removal and submits that Plaintiff has acted in bad faith in order to prevent said Defendant from removing the action by virtue of the failure to serve this Defendant. Instead of serving the described Virgo Capital, LLC herein, the Plaintiff has filed an amended complaint on July 7, 2016, in the Kings Supreme Court matter.

3. Plaintiff seeks damages pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. §1692, et seq., relating to an alleged consumer transaction involving Plaintiff. (See Summons attached hereto as **Exhibit "A"**)

4. Plaintiff is an individual with a mailing address in care of his attorney at 775 Park Avenue, Ste. 255, Huntington, New York 11743.

5. Defendant, VIRGO CAPITAL LLC, is a New York Professional Limited Liability Company with its principal Place of business located 243 Rt. 100, Somers, NY 10038.

6. This Honorable Court has original jurisdiction based upon the existence of a Federal Question pursuant to 28 U.S.C. § 1331. Plaintiff brings the foregoing action based, in part, pursuant to the Fair Debt Collection Practices Act (15 U.S.C. § 1692, et seq.). (See Summons attached hereto as Exhibit "A")

7. Pursuant to 28 U.S.C. § 1446(a) this Notice of Removal is filed in the United States District Court for the Eastern District of New York, which is the District in which the State Court Action is pending.

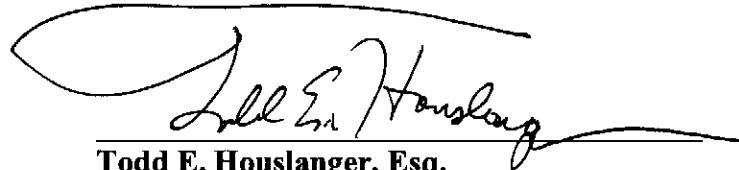
8. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b) as the thirty (30) day period after service upon Defendant Virgo Capital, LLC's has not yet run as said Defendant has not been served with any Summons or pleadings to date, and as not to prejudice the timely process of this proceeding, and within thirty (30) days after Plaintiffs' filing of the Amended Complaint dated July 7, 2016.

9. Defendants will file this date a copy of the Notice of Removal with the Clerk of the Court for the Supreme Court of the State of New York, County of Kings as required by 28 U.S.C. § 1446(d).

10. Defendants will this date give written notice of the filing of this Notice of Removal to Plaintiff and all other parties who appeared in the action as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendant VIRGO CAPITAL, LLC respectfully requests that the above entitled action now pending in the Supreme Court of the State of New York, County of Kings, be removed there from to this Court.

Dated: July 14, 2016
Huntington, New York



Todd E. Houslanger, Esq.
HOUSLANGER & ASSOCIATES, PLLC
Attorney for Defendant
VIRGO CAPITAL, LLC
372 New York Avenue
Huntington, New York 11743
(631) 427-1140
Our File No.: 359845

EXHIBIT “A”

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

THOMAS M. ANDERSON,
ON BEHALF OF HIMSELF AND
ALL OTHERS SIMILARLY SITUATED,

Plaintiff,

-against-

HOUSLANGER & ASSOCIATES, PLLC,
TODD E. HOUSLANGER,
MEL S. HARRIS, DAVID WALDMAN,
SCOTT E. WORTMAN, LR CREDIT 18, LLC,
LEUCADIA NATIONAL CORPORATION,
AND VIRGO CAPITAL, LLC,

Defendants.

INDEX NO. 500608/2016
FILING DATE: 1/15/2016

SUMMONS WITH NOTICE

Plaintiff designates
Kings County
as the place of trial
The basis of the venue is
Plaintiff's designation

To the above named defendant(s):

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or if the complaint is not served with the summons, to serve a notice of appearance, on the plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if the summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the sum of \$505,000.00 with interest thereon from the 15th day of January 2015, together with the costs of this action and reasonable attorney's fees.

TAKE NOTICE that the object of this action and the relief sought is to recover damages for violations of the Fair Debt Collection Practices Act, 15 USC 1692, et. seq., negligence, fraud, and NY GBL 349 and that in case of your failure to answer, judgment will be taken against you for the sum of \$505,000.00 with interest thereon from the 15th day of January 2015, together with the costs of this action and reasonable attorney's fees.

Dated: January 15, 2016
Huntington, NY

/s/

Mitchell L. Pashkin
Attorney For Plaintiff
775 Park Avenue, Ste. 255
Huntington, NY 11743

Index No. 500608/2016

THOMAS M. ANDERSON,
ON BEHALF OF HIMSELF AND
ALL OTHERS SIMILARLY SITUATED,

Plaintiff(s),

-vs-

HOUSLANGER & ASSOCIATES, PLLC,
TODD E. HOUSLANGER, MEL S. HARRIS,
DAVID WALDMAN, SCOTT E. WORTMAN,
LR CREDIT 18, LLC,
LEUCADIA NATIONAL CORPORATION,
AND VIRGO CAPITAL, LLC,

Defendants.

SUMMONS WITH NOTICE

Mitchell L. Pashkin certifies that, to the best of his knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the presentation of the annexed paper(s) or the contentions therein are not frivolous as defined in 22 NYCRR 130-1.1.(c).

/s/

Mitchell L. Pashkin
Attorney For Plaintiff
775 Park Avenue, Ste. 255
Huntington, NY 11743
Tel.: 631.335.1107
Fax.: 631.824.9328
mpash@verizon.net

EXHIBIT “B”

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF KINGS

filed 1/15/2016

Calendar No.

I~ AFFIDAVIT
OF
SERVICE

THOMAS M. ANDERSON

against

Plaintiff(s) Petitioner(s)

HOUSLANGER & ASSOCIATES, PLLC et al

Defendant(s) Respondent(s)

STATE OF DELAWARE, COUNTY OF: NEW CASTLE

Ss.:

The undersigned, being sworn, says: Deponent is not a party herein, is over 18 years of age and resides at Wilmington, DE

On 5/5/16 at 12:30 P.M., at C/O THE COMPANY CORPORATION 2711 CENTERVILLE RD. WILMINGTON, DE 19808

deponent served the within

summons and complaint
 subpoena duces tecum
 citation

SUMMONS WITH NOTICE & NOTICE OF AVAILABILITY OF ELECTRONIC FILING
 SUPREME COURT CASES

on VIRGO CAPITAL, LLC

defendant witness hereinafter called therein
 -esponent the recipient lamed

INDIVIDUAL
1.

by delivering a true copy of each to said recipient personally; deponent knew the person so served to be the person described as said recipient therein.

CORPORATION
2.

a DELAWARE corporation, by delivering thereat a true copy of each to LYNANNE GARES personally, deponent knew said corporation so served to be the corporation, described in same as said recipient and knew said individual to be AUTHORIZED PERSON AT THE REGISTERED AGENT thereof

SUITABLE
AGE PERSON
3. by delivering thereat a true copy of each to a person of suitable age and discretion. Said premises is recipient's actual place of business dwelling place usual place of abode within the state. by affixing a true copy of each to the door of said premises, which is recipient's actual place of business dwelling place usual place of abode within the state. Deponent was unable, with due diligence to find recipient or a person of suitable age and discretion, thereat, having called thereAFFIXING TO
DOOR, ETC.
4. MAILING TO
RESIDENCE
USE WITH 3 OR 4
5A. Deponent talked to at said premises who stated that recipient lived worked there. Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a postpaid envelope properly addressed to recipient at recipient's last known residence, atMAILING TO
BUSINESS
USE WITH 3 OR 4
5B.

and deposited said envelope in an official depository under exclusive care and custody of the U.S. Postal Service within New York State. Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a first class post paid envelope properly addressed to recipient at recipient's actual place of business, at

DESCRIPTION

in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State. The envelope bore the legend "Personal and Confidential" and did not indicate on the outside thereof, by return address or otherwise, that the communication was from an attorney or concerned an action against the recipient.

Male White Skin Black Hair White Hair 14-20 Yrs. Under 5' Under 100 Lbs.
 Female Black Skin Brown Hair Balding 21-35 Yrs. 5'0"-5'3" 100-130 Lbs.
 Yellow Skin Blonde Hair Mustache 36-50 Yrs. 5'4"-5'8" 131-160 Lbs.
 Brown Skin Gray Hair Beard 51-65 Yrs. 5'9"-6'0" 161-200 Lbs.
 Red Skin Red Hair Glasses Over 65 Yrs. [- I Over 6' Over 200 Lbs.

Other identifying features:

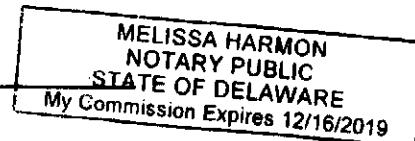
WITNESS
FEES

\$ the authorizing traveling expenses was paid (tendered) to the recipient _____
 and one day's witness fee: was mailed to the witness with subpoena copy.

MILITARY
SERVICE

I asked the person spoken to whether recipient was in active military service of the United States or of the State of New York in any capacity whatever and received a negative reply. Recipient wore ordinary civilian clothes and no military uniform. The source of my information and the grounds of my belief are the conversations and observations above narrated. Upon information and belief I aver that the recipient is not in military service of New York State or of the United States as that term is defined in either the State or in the Federal statutes.

Sworn to before me on 5/5/16



License No.

KEVIN S. DUNN
800-952-2288

EXHIBIT “C”

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

THOMAS M. ANDERSON,
ON BEHALF OF HIMSELF AND
ALL OTHERS SIMILARLY SITUATED,

Plaintiff,

INDEX NO.

500608/2016

-against-

COMPLAINT

HOUSLANGER & ASSOCIATES, PLLC,
TODD E. HOUSLANGER,
MEL S. HARRIS, DAVID WALDMAN,
SCOTT E. WORTMAN, LR CREDIT 18, LLC,
LEUCADIA NATIONAL CORPORATION,
AND VIRGO CAPITAL, LLC,

Defendants.

Plaintiff, Thomas M. Anderson [hereinafter "Anderson"], on behalf of himself and all others similarly situated, by and through his attorney, Mitchell L. Pashkin, Esq., complains of Houslanger & Associates, PLLC [hereinafter "H&A"], Todd E. Houslanger [hereinafter "TEH"], Virgo Capital, LLC [hereinafter "Virgo"], Leucadia National Corporation [hereinafter "Leucadia"], LR CREDIT 18, LLC [hereinafter "LR Credit 18"], Scott E. Wortman [hereinafter "Wortman"], Mel S. Harris [hereinafter "Harris"], and David Waldman [hereinafter "Waldman"], and alleges as follows:

1. This is a proposed class action under Article 9 of the New York CPLR alleging violations of 15 U.S.C. § 1692, et. seq. ("Fair Debt Collection Practices" or "FDCPA") and New York General Business Law § 349 ("GBL 349").
2. Anderson is authorized to bring this action alleging violations of GBL 349 per GBL 349 (h).
3. This court has jurisdiction of this case pursuant to NY CPLR 301 and/or NY CPLR 302(1).
4. Venue is proper per NY CPLR 509.

VIRGO

19. Virgo is a New York limited liability corporation, and upon information and belief has a principal place of business located at 243 RT. 100, Somers, NY 10038.
20. The principal purpose of Virgo is the collection of debts using the instrumentalities of interstate commerce, including mails and telephone; and it regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due to another.
21. Virgo is a “debt collector” as defined by 15 U.S.C. § 1692a(6) of the FDCPA.

WORTMAN

22. Wortman is an attorney with a current principal place of business located at Warshaw Burstein, LLP, 555 Fifth Avenue, New York, NY 10017.
23. Wortman is a former partner of Mel S. Harris & Associates LLC, and was a partner of Mel S. Harris & Associates LLC at the relevant times set forth in this Complaint as regards the alleged actions and/or omissions of Wortman.
24. Mel S. Harris & Associates LLC was a law firm whose principal purpose was the collection of debts using the instrumentalities of interstate commerce, including mails and telephone; and it regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due to another. Mel S. Harris & Associates LLC was a “debt collector” as defined by 15 U.S.C. § 1692a(6) of the FDCPA.
25. A debt collector as defined by the FDCPA, 15 USC 1692b (6), is a “person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another.” The FDCPA itself does not define the word “person”; but the Dictionary Act’s definition of a person expressly

117. There are questions of law and fact common to the class members, which common questions predominate over any questions that affect only individual class members.

118. Plaintiff will fairly and adequately represent the interests of the class members. Plaintiff has retained counsel experienced in consumer credit and debt collection abuse cases.

119. A class action is the superior means of adjudicating this dispute.

120. Individual cases are not economically feasible.

WHEREFORE, Plaintiff requests that the Court enter judgment in favor of Plaintiff and the class members and against Defendants for:

1. Statutory damages under the FDCPA of \$1,000 for Plaintiff and actual damages of Plaintiff under the FDCPA in the amount of \$10,000;
2. Statutory damages under the FDCPA of \$1,000 for each class member in a total amount not to exceed the lesser of \$500,000 or 1% of the net worth of all the defendants;
3. Statutory damages under NY GBL section 349 and actual damages under NY GBL section 349 in the amount of \$10,000;
4. Costs and attorneys' fees allowed as a result of this action; and
5. Any and all other relief deemed just and warranted by this court.

Dated: June 1, 2016

/s/ Mitchell L. Pashkin

Mitchell L. Pashkin (MP 9016)
Attorney For Plaintiff
775 Park Avenue, Suite 255
Huntington, NY 11743
(631) 335-1107
mpash@verizon.net

EXHIBIT “D”

NYS Department of State

Division of Corporations

Entity Information

The information contained in this database is current through July 13, 2016.

Selected Entity Name: VIRGO CAPITAL, LLC

Selected Entity Status Information

Current Entity Name: VIRGO CAPITAL, LLC

DOS ID #: 4167514

Initial DOS Filing Date: NOVEMBER 18, 2011

County: WESTCHESTER

Jurisdiction: NEW YORK

Entity Type: DOMESTIC LIMITED LIABILITY COMPANY

Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

VIRGO CAPITAL, LLC

243 RT. 100

SOMERS, NEW YORK, 10589

Registered Agent

SPIEGEL & UTRERA, P.A., P.C.

1 MAIDEN LANE

5TH FLOOR

NEW YORK, NEW YORK, 10038

This office does not require or maintain
information regarding the names and addresses of
members or managers of nonprofessional limited
liability companies. Professional limited liability

companies must include the name(s) and address
(es) of the original members, however this
information is not recorded and only available by
viewing the certificate.

***Stock Information**

# of Shares	Type of Stock	\$ Value per Share
No Information Available		

*Stock information is applicable to domestic business corporations.

Name History

Filing Date	Name Type	Entity Name
NOV 18, 2011	Actual	VIRGO CAPITAL, LLC

A **Fictitious** name must be used when the **Actual** name of a foreign entity is unavailable for use in New York State. The entity must use the fictitious name when conducting its activities or business in New York State.

NOTE: New York State does not issue organizational identification numbers.

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

AFFIDAVIT OF SERVICE BY MAIL

SANDY LYNN RIEFBERG, being duly sworn, deposes and says:

Deponent is not a party to this action, is over 18 years of age and resides in Huntington, New York.

On July 14, 2016, deponent served the within **NOTICE OF REMOVAL** upon the following persons and attorneys of record as follows:

TO: Mitchell L. Pashkin, Esq.
775 Park Avenue, Suite 255
Huntington, NY 11743 David M. Barshay, Esq.
Barshay Sanders PLLC
100 Garden City Plaza, Ste 500
Garden City, NY 11530 Margaret A. Dale, Esq.
Proskauer Rose LLP
Eleven Times Square
New York, NY 10036

The address designated by said person and attorneys for that purpose by depositing a true copy of same enclosed in a First Class Mail postpaid properly addressed wrapper in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State.

SANDY LYNN RIEBERG

Sworn to before me this

14th day of July, 2016

B. B. B.
NOTARY PUBLIC

BRYAN C. BRYKS
Notary Public-State of New York
No. 01BR618233
Qualified in Queens County
My Commission Expires February 25, 2026